

EXHIBIT 11: Dabbs Deposition

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
CHARLOTTESVILLE DIVISION

EARL WASHINGTON, JR.,)
Plaintiff,)
vs.) Case No. 3:02CV00106
KENNETH H. BURAKER, et als.,)
Defendants.)

TO BE FILED UNDER SEAL

AND SUBJECT TO THE PROTECTIVE ORDER

CERTIFIED COPY

November 10, 2003
Richmond, Virginia

The deposition of **DEANNE F. DABBS**, taken at the instance of the Plaintiff, before Carolyn M. O'Connor, RMR, CRR, a Notary Public for the Commonwealth of Virginia at Large, beginning at 9:28 a.m., at the Division of Forensic Science, 700 North Fifth Street, Richmond, Virginia; said deposition taken pursuant to the Federal Rules of Civil Procedure.

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1 MR. NEUFELD: Folks, I think we'll use
2 the usual federal stips?

3 MR. GOULD: I don't know what you mean by
4 the usual federal stips.

5 MR. NEUFELD: Well, about objections.
6 Obviously objections as to form should be made
7 and all other objections are preserved.

8 MR. BENNETT: Yeah.

9 MR. GOULD: Relevancy objections, of
10 course, would be irrelevant.

11 MR. NEUFELD: Okay.

12

13 **DEANNE F. DABBS**, called by the Plaintiff,
14 first being duly sworn, testified as follows:

15

16 EXAMINATION BY MR. NEUFELD:

17 Q Ms. Dabbs, my name is Peter Neufeld, and
18 I represent, along with other counsel, Earl
19 Washington in a civil lawsuit that he has, and we're
20 going to be going over a lot of documents. If it
21 takes time for you to find the right document,
22 please, whatever time it takes, because that's what
23 this is really about today.

24 Could you first, Ms. Dabbs, give us a
25 little summary of your background, just your

1 education, training, professional employment.

2 A I hold a master's degree in forensic
3 science from George Washington University in
4 Washington, D.C.; I hold a bachelor of science
5 degree in medical technology from the Medical
6 College of Virginia Health Sciences Division of
7 Virginia Commonwealth University and from Mary
8 Washington College in Fredericksburg, Virginia. I
9 spent probably a year in a training program of
10 concentrated study in the techniques used in
11 forensic science for the examination of blood, body
12 secretions, hairs and natural fibers. During that
13 time I worked with examiners who were qualified in
14 those areas and worked on hundreds of cases and
15 items of evidence. I was qualified as a forensic
16 scientist in the area of forensic serology, hairs
17 and natural fibers in 1978, and I worked on cases
18 here. Then I transferred to the Northern Laboratory
19 in Fairfax County, and I was there from 1978 until
20 1988, at which time I was promoted and came back to
21 Richmond and have been with the Division up until
22 today.

23 Q And what's your current position here
24 with the Division?

25 A I'm the program manager for the forensic

1 biology section, which is statewide responsibility
2 for the operation of the section.

3 Q Thank you. Now, you did the original
4 work on the Earl Washington case or, I should say,
5 on the Rebecca Williams homicide back in 1982?

6 A The original forensic biology, yes.

7 Q And you did work in 1983 when
8 Mr. Washington was arrested in connection with this
9 case as well; is that correct?

10 A I did it in 1982 and 1983, yes, that is
11 correct.

12 Q But you didn't testify in the prosecution
13 of Mr. Washington; isn't that right?

14 A That is correct.

15 Q But you did testify for the first time in
16 a federal *habeas corpus* proceeding in the early
17 1990's?

18 A Yes.

19 Q Do you recall that?

20 A Yes.

21 Q Was that the first time you ever
22 testified in connection with this matter?

23 A Yes, it was.

24 Q Had you had any reason to review the
25 files in this case between 1983 or 1984 and the

1 on Stain 2 of the blue blanket other than what you
2 did in the summer of 1982?

3 A No, I did not.

4

5 (Discussion off the record.)

6

7 Q Other than the fact that Earl Washington
8 was arrested in May of 1982 and -- I'm sorry,
9 withdrawn.

10 What was the date you said you did the
11 transferrin testing on Earl Washington's sample?

12 A August 4 of 1983.

13 Q What happened after August 4 of 1983 that
14 led you to amend the Certificate of Analysis with
15 respect to the transferrin type of Stain 2 on
16 Item 24?

17 A An article came out -- I believe it was
18 in the *Journal of Forensic Science* -- which
19 indicated that a transferrin Type C upon degradation
20 could appear to be a transferrin Type CD. In light
21 of that article, I went back on all cases that I had
22 issued certificates on, which were this one and
23 perhaps one other case that I recall, and I amended
24 the report to reflect the transferrin type as being
25 inconclusive in light of the fact that a transferrin

1 C as it degrades can give the appearance of a CD.

2 Q And did this article appear in the
3 *Journal of Forensic Science* --

4 A That would be my best recollection, that
5 that's where it was.

6 Q In the *Journal of Forensic Science* in
7 August of 1983?

8 A I don't recall the date.

9 Q Well, when did you read the article?

10 A I don't recall that either.

11 Q Well, was it during --

12 A I don't have any recollection of that at
13 all.

14 Q Was it during the summer of 1983?

15 A I don't have any recollection of when I
16 read the article. Once I read the article, I
17 corrected -- amended this report, and I believe it
18 would -- it would be my best recollection that there
19 was at least one other Certificate of Analysis
20 associated with a different case where I had
21 reported a transferrin Type CD result.

22 Q But as you sit here today, to the best of
23 your recollection, you just happened to be reading
24 the *Journal of Forensic Science*, and that was one of
25 the articles in it, and as a result of that, you

1 took this remedial action? Is that basically what
2 you're saying?

3 A Yes, that is correct.

4 Q It wasn't because Earl Washington didn't
5 have the CD that someone suggested to you that you
6 look for certain articles or anything like that?

7 A Absolutely not, absolutely not.

8 Q Now, fast forward ten years to 1992. You
9 were the person who was asked to do the retesting,
10 if you would, on certain items of evidence in this
11 case; is that correct?

12 A No, I don't believe that's correct. That
13 wouldn't be my recollection.

14 Q Well, on May 14 of 1993, did you write a
15 memorandum evaluating Item 58 and Item 45 for
16 possible DNA testing?

17 A Did I write a memorandum? I wrote a memo
18 to the file with regard to a telephone conversation
19 that I had on May 14 of 1993 with John McLees, who
20 was an Assistant Attorney General, answering
21 questions, inquiries that he had with regard to the
22 case. Is that what you are referring to?

23 Q Yes. Is this your handwriting, or is
24 this Jeff's?

25 A No, that's mine. Here are my initials

1 Q What about the cutoffs?

2 A I'm sorry, which item number are you
3 referring to? Is it Item 22, Levi cutoffs?

4 Q Yes.

5 A They were also returned to Investigator
6 Buraker on July 14 of 1982.

7 Q July 14 of '82?

8 A Yes, the same date as the blue underpants
9 and jeans.

10 Q Thank you, Ms. Dabbs, that's all. These
11 folks may have questions. I have no idea.

12 MR. BENNETT: I've got a couple.

13

14 EXAMINATION BY MR. BENNETT:

15 Q Ms. Dabbs, calling your attention to item
16 No. 24, the blue baby blanket, that's the one with
17 four blood stains on it, I believe.

18 A Yes, it did have four blood stains.

19 Q And I believe Stain 2 was the one that
20 you testified at first you got a Tf result of CD,
21 and then you later amended your report because of
22 some research that you saw at some point in time.
23 Is that the item?

24 A That is the item, yes.

25 Q Looking at those four stains generally,

1 are those four stains, putting aside the Tf issue,
2 all consistent with the victim's blood?

3 A Yes, they are, with the exception of the
4 transferrin CD as originally reported.

5 Q And these were four discrete blood stains
6 on a baby blanket?

7 A Yes, that's correct.

8 Q Was there anything about them that would
9 make you think that one of those four stains was
10 somebody else's blood other than the victim just by
11 the appearance of them?

12 A No, I was --

13 MR. NEUFELD: Objection.

14 Go ahead.

15 A I was looking for isolated stained areas,
16 and my notes described those as four isolated areas
17 found. So each one of those were not necessarily a
18 discrete stain, but a stained area, an isolated
19 stained area.

20 Q On stain No. 2, other than the Tf result,
21 the rest of those results on all those things that
22 you did were all consistent with the victim,
23 Ms. Williams?

24 A Yes, that's correct.

25 Q And the research that you saw, can you

1 explain a little further about why that led you to
2 change your conclusion on that one test?

3 A Well, it's been quite some time since I
4 read the article, but as I recall, the article
5 indicated that as the transferrin Type C degrades,
6 before it totally disappears and is no longer
7 detectable, the C changes into the appearance of a
8 CD; and therefore, as I -- my best recollection
9 would be that the stains on this baby blanket were
10 fairly heavy stains; therefore, there was concern in
11 my mind that one reasonably could expect that
12 degradation had occurred in those stains; and I felt
13 like the most responsible thing to do as a scientist
14 was to issue an amended report, correct my original
15 result, which I had reported it as a CD, to call it
16 an inconclusive based on the information that came
17 out in the scientific literature; and as I stated, I
18 not only did it for this report, I believe I did it
19 for at least one other Certificate of Analysis that
20 was issued in the same timeframe as this Certificate
21 of Analysis.

22 Q Now, your notes indicate that you had a
23 meeting -- on the front of this 1982 report, the
24 nine-pager, it indicates you had a meeting on
25 August 25 of '83 with the prosecutor and some of the

1 police officers. Do you see that?

2 A Yes, with John Bennett, the prosecutor;
3 Reese Wilmore, State Police; and Kenny Buraker of
4 Culpeper on August 25 of 1983.

5 Q Did that meeting prompt you to amend that
6 report to make that one correction?

7 A Absolutely not.

8 Q Was that correction made at the
9 suggestion of anyone other than your realizing that
10 that probably was an error?

11 A Absolutely not.

12 Q Did it have anything to do with Earl
13 Washington being a suspect or under indictment?

14 A Absolutely not. It had to do with
15 scientific principle.

16 Q And the overall conclusion that you would
17 reach from these four stains on that blanket is that
18 that's all victim blood or consistent with --

19 A It is certainly consistent with Rebecca
20 Williams, yes.

21 Q I think that's all I wanted to clear up.

22 MR. GOULD: Just a quick question.

23

24 EXAMINATION BY MR. GOULD:

25 Q Did you ever have any meeting about the